REMARKS

By this amendment, claims 1-15 are pending, in which no claim is canceled, currently amended, or newly added. No new matter is introduced.

The final Office Action mailed August 15, 2006 provisionally rejected claims 1, 3, 5, 8, and 10 based on the judicially created doctrine of obviousness-type double patenting over claim 1 of co-pending application 10/024,202. Claims 1, 3, 5, 8, and 10 were rejected under 35 U.S.C. § 103(a) as obvious based on *Bates et al* (US 6,785,732 B1). Further, the Office Action rejected claims 2, 4, 7, and 9 as obvious under 35 U.S.C. § 103(a) based on *Bates et al.* in view of "Network Associates Ships Cybercop Sting – Industry's first 'Decoy' Server Silently Traces and Tracks Hacker Activity" (hereinafter NAI), claims 6 and 11 as obvious under 35 U.S.C. § 103(a) based on *Bates et al.* in view of NAI and further in view of *Caccavale* (US Pub. No. 2002/0129277 A1), and claims 12-15 as obvious under 35 U.S.C. § 103(a) based on *Bates et al.* in view of NAI and further in view of *Kim et al.* (U.S. 6,701,440 B1).

Regarding the double-patenting rejection, Applicants maintain that the Examiner has not met the burden of production. Without any substantial evidence, the Examiner merely concludes that "it would have been obvious to one having ordinary skill in the art at the time of applicant's invention to notify security manager upon detection of virus" (page 3 of the Office Action). Also, the Examiner is again reminded that it has been clearly established that the co-pending applications principally underlying the double patenting rejection cannot be considered prior art against one another. *See* ***In re Braithwaite***, 379 F.2d 594, 154 USPQ 29 (CCPA 1967).

Applicants respectfully traverse the obviousness rejections, as the references, individually or in combination, fail to disclose all features of the claims. For example, claim 1 recites a "**switch configured for: directing incoming electronic mail from the Internet backbone to the scanning system.**"

Applicants argued in the prior Response dated June 6, 2006, that *Bates et al.* in fact does not disclose use of any such switch, even by the Examiner's own admission. However, it is not understood why this argument has not been addressed in the present Office Action. No rebuttal was provided in the Response to Arguments section (page 7 of the Office Action). The Examiner persists in citing the same passage, col. 7, line 66 – col. 8, line 11, but yet admits that "Bates does not explicitly disclose a switch" (page 4 of the prior Office Action, dated June 6, 2006). This cited passage states (Emphasis Added):

> Referring now to FIG. 4, a method 400 in accordance with the preferred embodiments allows a virus checker on **a web server to automatically check e-mail messages, web pages, and downloaded files for viruses before passing these on to a web client**. Method 400 begins when a web client requests **information that normally would flow through the web server to the web client** (step 410). If the request does not require virus checking (step 420=NO), the requested information is sent to the web client (step 480). If the request requires virus checking (step 420=YES), a virus check is performed on the requested information (step 430). If no virus is found (step 440=NO), the requested information is sent to the web client (step 480).

In the above passage, *Bates et al.* clearly discloses that information **normally flows** through the web server to the web client and the web server performs the virus checking procedure on e-mail messages, web pages, and downloaded files before they are sent to the client. It is evident that all information that is requested by the client **normally** goes through the web server to be checked for viruses and is not "redirected to the server for checking" as asserted by the Examiner. There is no mention of a switch that specifically directs "incoming electronic mail from the Internet backbone to a scanning system." There is no capability or motivation by *Bates et al.* to employ a switch to direct different types of traffic to different types of servers before being sent to the clients. In the *Bates et al.* system, **all traffic that is to be sent over to the clients normally go through a single web server without being directed by a component such as a switch**, much less "a switch coupled between the internet backbone, the scanning

system and the anti-virus server." *Bates et al.* merely distinguishes between the different types of traffic **arriving** at the web server and accordingly performs virus checking in the web server. Also, there is no disclosure for directing the different types of traffic to specific servers.

The addition of *Caccavale*, *Kim et al.*, or NAI does not fill in the gaps of *Bates et al.* Therefore, the obviousness rejections are unsustainable.

Therefore, the present application, as amended, overcomes the objections and rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 425-8508 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

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Date

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